

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2019-4) & SITE PLAN APPROVAL
Accessory Apartment
188 Main Street, Grafton, MA**

**Anthony LeMay, Jr. (Applicant)
Anthony and Deborah LeMay (Owner)**

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Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Anthony LeMay, Jr. of 188 Main Street, South Grafton, MA (herein after the OWNER) for a Special Permit and Site Plan Approval for an Accessory Apartment, on property located at 188 Main Street, South Grafton, MA, shown as Grafton Assessor's Map 113, Lot 39, (hereinafter the SITE) by deed recorded in the Worcester Registry of Deeds Book 32084, Page 113.

I. BACKGROUND

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on March 12, 2019. Notice of the public hearing and the subject matter thereof was published in the Grafton News on March 21 and March 28, 2019, and posted with the Town Clerk's Office. The public hearing on the Application was held on April 8, 2019. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, Members David Robbins and Michael Scully. At the hearing, Anthony LeMay, Jr. (Applicant) was present to discuss the Application with the Board. At the public hearing, there was no public present. The hearing was closed on April 8, 2019.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

1. Original Application Submission, received March 12, 2019 to include the following;
 - a. Application for Special Permit, signed by Anthony LeMay, Jr., dated March 12, 2019, date stamped by the Town Clerk on March 12, 2019 and date stamped by Planning on March 12, 2019, 1 page.
 - b. Application for Site Plan Approval, signed by Anthony Lemay, Jr., dated March 12, 2019, 2019, date stamped by the Town Clerk on March 12, 2019 and date stamped by Planning on March 12, 2019, 1 page.
 - c. Certificate of Good Standing, signed by Beth Schrottman, dated March 12, 2019, and date stamped by Planning on March 12, 2019, 1 page.
 - d. Abutters Listing for 181 Main Street, dated March 8, 2019 and signed by Ken O'Brien, MAA, Data Collector, and date stamped by Planning on March 12, 2019, 1 page.
 - e. Letter to the Planning Board, dated March 12, 2019, regarding "Accessory Apartment," and date stamped by Planning on March 12, 2019, 1 page.

- f. Listing of waivers requested, date stamped by Planning on March 12, 2019, 2 pages.
 - g. Plan: plot plan of the lot at 181 Main Street, date stamped by Planning on March 12, 2019, 1 page.
 - h. Plan: aerial plot plan (black and white) of the lot at 181 Main Street, date stamped by Planning on March 12, 2019, 1 page.
 - i. Plan: "Proposed Addition Plot Plan, Located at 188 Main Street," dated November 20, 2018, and date stamped by Planning on March 12, 2019, 1 page.
- 2. Plan: entitled "LeMay Residence, Proposed Addition" dated November 20, 2018 and date stamped by Planning on March 12, 2019, 9 pages.
 - 3. Public Hearing Notice, date stamped by the Town Clerk on March 15, 2019, 1 page.
 - 4. Email from Nancy Connors, Board of Health, dated March 18, 2019 and date stamped by Planning on March 18, 2019, 1 page.
 - 5. Email from Katrina Koshivos, Zoning Board of Appeals, dated March 19, 2019 and date stamped by Planning on March 19, 2019, 1 page.

III. FINDINGS

At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to make the following Findings:

- 1. That determinations regarding the following Findings are based upon the documents and plans identified in this Decision, as well as the information and EXHIBITS submitted and presented in association with the Applications.
- 2. That this Application is for an accessory apartment on the Site as defined in Section 2.1 and Section 3.2.3.1 (Accessory Uses) of the Grafton Zoning By-law (hereinafter ZBL), and as shown on the plans identified in Exhibit #1a through i of this Decision.
- 3. That the Site is located in the Medium Density Residential (R20) zoning district. The Board further finds that accessory apartments are permitted in an R20 zoning district only upon the issuance of a Special Permit by the Planning Board.
- 4. That determinations regarding the following Findings are also predicated upon the maintenance of the Site in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- 5. That during the public hearing, the Planning Board informed the Applicant that previously issued special permits for accessory apartments typically included a condition that limited occupancy of such apartments only to family members. The purpose of this requirement is to ensure that the unit is accessory for family use and not intended to be used in the future as a duplex. The Board finds that the Applicant acknowledged this condition.
- 6. The Board notes that there was no public input at the Public Hearing for this Application.

7. With regard to Section 1.5.5(a) of the ZBL, that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, **are** adequate.
8. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district **are** satisfactory.
9. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas **are** satisfactory. Given the nature of the application no changes to the existing refuse collection are required.
10. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character **are** adequate. No issues or concerns were raised during the public hearing pertaining to this criteria.
11. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect **is** compatible and in harmony with properties in the district. No exterior lighting or signs are proposed. The addition is for residential purposes only and the proposed use is compatible with surrounding residential uses.
12. With regard to Section 1.5.5(f) of the ZBL, that based upon the Findings stated within this Decision, the required yards and other open space requirements **are** adequate. The proposed addition meets the setback and other dimensional requirements.
13. With regard to Section 1.5.5(g) of the ZBL that the proposed accessory apartment use (as presented in the EXHIBITS stated within this Decision and by the Applicant during the public hearing) **is** generally compatible with adjacent properties and properties in the district. The proposed addition is located within an existing residential neighborhood and will be designed to match the exiting house.
14. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there **will not** be any significant adverse impact on any public or private water supply. The Board of Health stated they had no comment (see Exhibit #4).
15. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there **will not** be any significant or cumulative impact upon municipal water supplies. The Board of Health The Board of Health stated they had no comment (see Exhibit #4).

16. With regard to Section 1.5.5(j) of the ZBL that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory. No issues or concerns were raised during the public hearing pertaining to this criterion.
17. That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
18. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board.
19. The Board finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Board finds that the Applicant submitted waiver requests from Section 1.3.3 of the Grafton Zoning By-Law (see Exhibit #1f).
20. That the Application as described within the Exhibits of this Decision, the waivers requested, and the resulting site plan, **are not** contradictory or inconsistent with the intent and purposes set forth in Section 1.3.3.1 of the ZBL.

IV. WAIVERS

1. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (d) Site Plan Requirements** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision:
 - (10.) Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones
 - (12.) Existing and proposed topography at two-foot elevation intervals
 - (16.) Parking calculations
 - (17.) Volume of Earth Material
 - (19.) Parking and loading spaces
 - (20.) Service areas and all facilities for screening
 - (21.) Landscaping
 - (22.) Lighting
 - (23.) Proposed signs
 - (25.) Stormwater management facilities (drainage)
 - (27.) Exterior storage areas and fences
 - (28.) Utilities and their exterior appurtenances
 - (29.) Dust and erosion control
 - (30.) Existing vegetation
 - (31.) Any other details or information deemed necessary by the Planning Board due to the unique nature of the proposed use or the subject property.

2. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (e) Stormwater Management and Hydrological Study** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
3. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 to **GRANT** the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (f) Report on Volume of Earth Material to be Removed** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
4. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 **GRANT**/the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (g) Written Statements** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.
5. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 **GRANT**/the Applicant's request for waivers from the following requirements of **Section 1.3.3.3 (h) Special Studies** of the ZBL with regard to other information, materials, reports, or studies deemed necessary within the Findings of this Decision.
6. At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 **GRANT**/the Applicant's request for waivers from the following requirements of **Section 8.2.1 – Traffic Study** of the ZBL with regard to preparing site plans, for the reasons stated within the Findings of this Decision.

IV. DECISION and CONDITIONS

At their meeting of April 22, 2019, after due consideration of the EXHIBITS submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 **APPROVE** the application for a Special Permit and Site Plan Approval with the following conditions:

1. This Special Permit / Site Plan Approval is granted specifically to the Applicant for property located at 188 Main Street South Grafton (as identified within this Decision), and does not run with the land. Once the Owner sells the property, the new owner will be required to complete an application to the Board to use the space as an accessory apartment.

2. The unit will be occupied by the Owner's family members and may not be occupied by non-family members. If in the future, the unit is vacated, then the use of the property reverts back to single family house and the accessory unit ceases to qualify as a separate living unit.
3. This Special Permit decision shall be recorded at the Worcester District Registry of Deeds within thirty (30) days following the expiration of the appeal period. A copy of such recorded Special Permit decision, including Deed Book and Page Number shall be submitted to the Planning Board office within thirty (30) days of recording.
4. By recording this Special Permit Decision in the Worcester Registry of Deeds, the applicant agrees to and accepts the conditions set forth in this Special Permit decision.
5. In accordance with Section 1.5.8 of the ZBL, this Special Permit shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use has not commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
6. Any modification to the use or Site as described within this Decision and as presented to the Board during the public meeting and in the above referenced EXHIBITS shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision (or other approvals if deemed necessary) if it finds that the proposed change(s) are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 1.3.3 of the Zoning By-law, and any other applicable regulations.

V. RECORD OF VOTE

At their meeting of April 22, 2019, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Scully) voted 5-0 **APPROVE** the Special Permit & Site Plan Approval Application with Conditions for an accessory apartment at 188 Main Street South Grafton based on the information received at the public hearing and the aforementioned findings.

<u>Robert Hassinger, Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Linda Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>Michael Scully, Member</u>	<u>AYE</u>
<u>Sharon Carroll-Tidman, Clerk</u>	<u>AYE</u>		

BY ORDER OF THE BOARD

DATE OF FILING OF DECISION



Joseph Laydon, Town Planner

4-25-2019

Date

cc: Applicant / Owner
• Building Inspector
• Assessor

To Whom It May Concern: This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Town Clerk

Date